

AMENDED IN SENATE JULY 13, 2009

AMENDED IN SENATE JUNE 30, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 40

Introduced by Assembly Member Fuentes Smyth

December 1, 2008

An act to add Section 13552.7 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 40, as amended, **Fuentes Smyth**. Water: reasonable use: electrical generation facilities.

The California Constitution provides that the right to water shall be limited to that amount of water that is reasonably required for the beneficial use to be served. Existing law declares that the use of potable domestic water for cooling towers is a waste or an unreasonable use of water if recycled water is available and other requirements are met.

The existing renewables portfolio standard program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not including local publicly owned electric utilities, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year.

This bill would declare that ~~the use of water for cooling or any other purpose in an eligible renewable energy resource is a beneficial use of water and that~~ the use of potable domestic water for cooling towers that are part of a generating system that is an eligible renewable energy resource is a reasonable use of water if certain requirements are met.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13552.7 is added to the Water Code, to
2 read:
3 13552.7. (a) The Legislature finds and declares that it is in the
4 interest of the state to construct generating facilities that are eligible
5 renewable energy resources, ~~as described in pursuant to the~~
6 ~~requirements of Article 16 (commencing with Section 399.11) of~~
7 ~~Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.~~
8 ~~(b) The use of water for cooling or any other purpose in an~~
9 ~~eligible renewable energy resource is a beneficial use of water.~~
10 ~~(c)~~
11 (b) Notwithstanding Section 13552.6, the use of potable
12 domestic water for cooling towers that are part of a generating
13 facility that is an eligible renewable energy resource is a reasonable
14 use of water within the meaning of Section 2 of Article X of the
15 California Constitution if all of the following requirements are
16 met:
17 (1) The generating facility is an eligible renewable energy
18 resource that meets the requirements of Article 16 (commencing
19 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
20 Public Utilities Code.
21 (2) The facility would not have a significant effect on the
22 environment, as defined in Section 21068 of the Public Resources
23 Code, to groundwater resources after mitigation measures are
24 implemented. ~~For purposes of this paragraph, a significant effect~~
25 ~~on the environment with respect to groundwater resources includes~~
26 ~~a water use that would cause the production rate of preexisting~~
27 ~~nearby wells to drop to a level that would not support existing land~~
28 ~~uses or planned uses for which permits have been granted.~~
29 ~~(3) The facility institutes a water monitoring program to measure~~
30 ~~the impacts of the eligible renewable energy resource on nearby~~
31 ~~wells and provides for mitigation or compensation for additional~~
32 ~~pumping costs or to increase the depth of wells that experience a~~
33 ~~reduction in water levels due to the use of groundwater by the~~
34 ~~eligible renewable energy resource, such that the wells cannot be~~
35 ~~used for their current purpose. implemented to protect groundwater~~

1 *resources due to the use of potable domestic water as described*
2 *in this subdivision.*

3 ~~(4)~~

4 (3) The State Energy Resources Conservation and Development
5 Commission or the state board, after notice to the public and a
6 public hearing, determines that the use meets the requirements of
7 paragraphs (1); ~~(2); and (3)~~ and (2), and determines that the use
8 is a reasonable use of water.

O